

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Gorillas Polishing and Plating Corp.
654 E. Young Street
Santa Ana, California 92705

ID No.: CAD 030 593 883

Respondent.

Docket HWCA 20050760

STIPULATION AND ORDER

Health and Safety Code
Section 25187

1. INTRODUCTION

1.1. Parties. The California Department of Toxic Substances Control (Department) and Gorillas Polishing and Plating Corp. (Respondent) enter into this Stipulation and Order (Order) and agree as follows:

1.2. Site. Respondent generates, handles, treats, stores, and/or disposes of hazardous waste at the following site: 654 E. Young Street, Santa Ana, California (Site).

1.3. Inspection. The Department inspected the Site on March 29 - 30, 2004.

1.4. Authorization Status. Respondent is a generator. The Respondent notified the Department for the treatment of aqueous waste containing cyanide. Respondent was authorized by the Orange County Certified Unified Program Agency (CUPA) pursuant to a permit-by-rule (PBR) authorization for one (1) treatment unit on March 18, 2002. Respondent generates the following hazardous waste: hazardous waste waters containing dissolved metals (hexavalent chrome, copper, nickel, and zinc) from electroplating operations; electroless zincate, hazardous waste water treatment sludge (metal hydroxide sludge), copper polishing waste, acids, and caustics.

1.5. Jurisdiction. Health and Safety Code section 25187, authorizes the Department to order action necessary to correct violations and assess a penalty when the Department determines that any person has violated specified provisions of the Health and Safety Code or any permit, rule, regulation, standard, or requirement issued or adopted pursuant thereto.

1.6. Hearing. Respondent waives any right to a hearing in this matter.

1.7. Full Settlement. By their respective signatures below, the Parties, and each of them, agree that this Order, and all of the terms contained herein, are fair, reasonable, and in the public interest. This Order shall constitute full settlement of the violations alleged below. By agreeing to this Order, the Department does not waive any right to take further enforcement actions within its jurisdiction and involving either the Respondent(s) or the Site, except to the extent provided in this Order.

2. VIOLATIONS

2.1. Enforcement Order. On September 6, 2006, the Department issued an Enforcement Order to Respondent, a true and correct copy of said Enforcement Order is attached hereto as Attachment A, and is incorporated herein by this reference.

2.2. Admissions. Respondent admits the violations alleged in the Enforcement Order.

3. SCHEDULE FOR COMPLIANCE

3.1. Respondent shall comply with the following:

3.1.1. The violations alleged in the Enforcement Order have been corrected.

3.1.2. Respondent shall make all payments at the time(s) and in accord with any other conditions set forth in Section 5 (Penalty) below.

3.2. Compliance with Applicable Laws. Respondent shall carry out this Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

3.3. Liability. Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Order. Notwithstanding compliance with the terms of this Order, Respondent may be required to take such further actions as are necessary to protect public health or welfare or the environment.

3.4. Site Access. Access to the Site shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any other agency having jurisdiction. The Department and its authorized representatives shall have the authority to enter and move freely about all property at the Site at all reasonable times for purposes including but not limited to: inspecting records, operating logs, and contracts relating to the Site; reviewing the progress of Respondent in carrying out the terms of this Order; and conducting such tests as the Department may deem necessary. Nothing in this Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law.

3.5. Government Liabilities. Neither the State of California nor the Department shall be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent or related parties in carrying out activities pursuant to this Order, nor shall the State of California nor the Department be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to this Order.

4. OTHER PROVISIONS

4.1. Penalties for Noncompliance. Failure to comply with the terms of this Order may subject Respondent to costs, penalties and/or damages, as provided by Health and Safety Code section 25188, and other applicable provisions of law.

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4.2. Parties Bound. This Order shall apply to and be binding upon Respondent and its officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Order.

4.3. Privileges. Nothing in this Agreement shall be construed to require any party to waive any privilege. However, the assertion of any privilege shall not relieve any party of its obligations under this Order.

4.4. Time Periods. "Days" for the purpose of this Order means calendar days.

4.5. Integration. This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this Order.

4.6. Non-Waiver. The failure by one party to require performance of any provision of this order shall not affect that party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of this Order constitute a waiver of any subsequent breach or default or a waiver of the provision itself.

4.7. Representation of Authority. By signing this Order, Respondent's Vice President, Lamberto Morales, represents and warrants that he is duly authorized by Respondent corporation and has legal capacity to execute and deliver this Order.

5. PENALTY

5.1. Except as is set forth below, Respondent shall pay the Department the total sum of \$37,000, which includes \$10,000 as reimbursement of the Department's costs incurred in connection with this matter.

5.2.1. (a) If Respondent shall have been alleged to have committed one or more Class 1 violations (as defined by California Code of Regulations, title 22, section

66260.10) within three years of the effective date of this Order, and said violation(s) ("Subsequent Violation(s)") are sustained by operation of law, agreement, or the decision of any person authorized by law to sustain a violation, the total amount set forth in paragraph 5.1 above, minus credit for all sums paid, shall then be immediately due and owing, without further notice.

(b) Nothing in this paragraph is intended to prohibit Respondent from exercising its right to appeal a finding of Subsequent Violation(s), if any, under the law, and any such time to file such an appeal must run before the provisions of this paragraph are exercised.

(c) In the event that Respondent shall self-disclose any violation which shall be determined to be a Class 1 violation, the Department may, in its sole discretion, elect not to enforce the provisions of this paragraph.

5.2.2. In the event that no violation has been alleged and sustained as set forth in paragraph 5.2.1 above, and all payments required to be paid as set forth in paragraph 5.3 below have been timely paid, then the remaining balance of \$12,000 shall be forgiven.

5.2.3. (a) The penalty shall be reduced by \$5,000 if, and only if, Respondent sends at least one employee to the California Compliance School, Modules I - V, and submits to the Department, within 180 days of the effective date of this Order, Certificates of Satisfactory Completion thereof.

(b) In the event that the above Certificates of Satisfactory Completion are not all received by the Department within 180 days of the effective date of this Order, the entire remaining balance of \$5,000 shall then become immediately due and payable in addition to the amounts required pursuant to paragraph 5.3 below.

(c) Further, Respondent shall ensure that, at all times hereafter, at least one employee of Respondent shall have completed Compliance School. No more than a six

month gap in this requirement shall be allowed at any time and no further credits shall be permitted for the attendance of subsequent employees at Compliance School.

5.3. Subject to the provisions of paragraph 5.2 above, payments are due as follows:

DATE DUE	AMOUNT DUE
March 1, 2007	\$1,670.00
June 1, 2007	\$1,670.00
September 1, 2007	\$1,670.00
December 1, 2007	\$1,670.00
March 1, 2008	\$1,670.00
June 1, 2008	\$1,670.00
September 1, 2008	\$1,670.00
December 1, 2008	\$1,670.00
March 1, 2009	\$1,670.00
June 1, 2009	\$1,670.00
September 1, 2009	\$1,670.00
December 1, 2009	\$1,630.00

5.4. Respondent's checks shall be made payable to Department of Toxic Substances Control, shall identify the Respondent and Docket Number, as shown in the

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caption of this case, and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control
Accounting Office
1001 I Street, 21st floor
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of the checks shall be sent to:

Charles A. McLaughlin, Chief
State Oversight and Enforcement Branch
Statewide Compliance Division
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826-3200

5.5. If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to Health and Safety Code section 25360.1, and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

6. EFFECTIVE DATE

6.1. The effective date of this Order is the date it is signed by the Department.

Dated: December 27, 2006

Original signed by Lamberto Morales
Lamberto Morales, Vice President
Gorillas Polishing and Plating Corp.
Respondent

Dated: December 28, 2006

Original signed by Charles A. McLaughlin
Charles A. McLaughlin, Chief
State Oversight and Enforcement Branch
Statewide Compliance Division

ATTACHMENT A

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Gorillas Polishing and Plating Corp.
654 E. Young Street
Santa Ana, California 92705

ID No.: CAD 030 593 883

Respondent.

Docket HWCA 20050760

ENFORCEMENT ORDER

Health and Safety Code
Section 25187

1. INTRODUCTION

1.1. Parties. The California Department of Toxic Substances Control (Department) issues this Enforcement Order (Order) to Gorillas Polishing and Plating Corp. (Respondent).

1.2. Site. Respondent generates, handles, treats, stores, and/or disposes of hazardous waste at the following site: 654 E. Young Street, Santa Ana, California (Site).

1.3. Inspection. The Department inspected the Site on March 29 - 30, 2004.

1.4. Authorization Status. The Respondent is a generator. The Respondent notified the Department for the treatment of aqueous waste containing cyanide. Respondent was authorized by the Orange County Certified Unified Program Agency (CUPA) pursuant to a permit-by-rule (PBR) authorization for one (1) treatment unit on March 18, 2002. Respondent generates the following hazardous waste: hazardous waste waters containing dissolved metals (hexavalent chrome, copper, nickel, and zinc) from electroplating operations; electroless zincate, hazardous waste water treatment sludge (metal hydroxide sludge), copper polishing waste, acids, and caustics.

1.5. Jurisdiction. Health and Safety Code, section 25187, subdivision (a), authorizes the Department to order action necessary to correct violations and to assess a penalty when the Department determines that any person has violated specified provisions of the Health and Safety Code or any permit, rule, regulation, standard, or requirement issued or adopted pursuant thereto.

2. DETERMINATION OF VIOLATIONS

2.1. The Department has determined that:

2.1.1. Respondent violated Health and Safety Code section 25201, in that, on or about March 29 - 30, 2004, Respondent batch treated the following waste streams without authorization:

- a. approximately 200 gallons of corrosive tri-acid waste per month;
- b. approximately 70-80 gallons/day of the floor wastes collected from the containment of the plating room; and,
- c. approximately 200 gallons per month of cleaner waste.

2.1.2. Respondent violated California Code of Regulations, title 22, section 67450.3, subdivision (c)(9)(F), section 66265.194, subdivision (d), and section 66265.17, in that, on or about March 29 - 30, 2004, Respondent stored incompatible wastes in two adjacent tanks without a berm or a separate secondary containment.

2.1.3. Respondent violated California Code of Regulations, title 22, section 67450.3, subdivision (c)(9)(F), which incorporates by reference section 66265.192, subdivision (a), in that, on or about March 29 - 30, 2004, Respondent failed to have an adequate tank assessment prepared and certified in accordance with California Code of Regulations, title 22, section 66270.11, subdivision (d), for the following tanks:

- a. two cyanide treatment tanks;
- b. a waste accumulation/treatment tank containing corrosive hexavalent chrome waste;
- c. two neutralization tanks; and,
- d. a settling tank.

2.1.4. Respondent violated California Code of Regulations, title 22, section 67450.3, subdivision (c)(9)(F), and section 66265.193, subdivision (j)(1), in that on or about March 29 - 30, 2004, Respondent failed to provide secondary containment for the following treatment tanks:

- a. two cyanide treatment tanks;
- b. a waste accumulation/treatment tank containing corrosive hexavalent chrome waste;
- c. two neutralization tanks; and,
- d. a settling tank.

2.1.5. Respondent violated California Code of Regulations, title 22, section 67450.3, subdivision (c)(8)(D), and section 66265.52, subdivisions (a), (c), and (e), as referenced by section 66262.34, subdivision (a)(4), in that on or about March 29 - 30, 2004, Respondent failed to have an adequate written contingency plan onsite.

2.1.6. Respondent violated California Code of Regulations, title 22, section 67450.3, subdivision (c)(9)(B), and section 66265.32, as referenced by section 66262.34, subdivision (a)(4), in that on or about March 29 - 30, 2004, Respondent failed to provide the following emergency equipment onsite: eyewash/shower and fire extinguisher in the wastewater treatment area.

2.1.7. Respondent violated California Code of Regulations, title 22, section 67450.3, subdivisions (c)(8)(C) and (c)(9)(A), and section 66262.34, subdivision (a)(4), and, section 66265.16, in that on or about March 29 - 30, 2004, Respondent did not have written training documents specific to the job for employees handling hazardous waste and failed to provide an initial training to the two employees involved in hazardous waste activities.

2.1.8. Respondent violated California Code of Regulations, title 22, section 67450.3, subdivision (c)(8)(A), and section 66265.13, in that on or about March 29 - 30, 2004, Respondent failed to have a written waste analysis plan.

2.1.9. Respondent violated California Code of Regulations, title 22, section 67450.3, subdivisions (c)(8)(G), (c)(11)(B)(1), and, (c)(11)(B)(4) in that, on or about March 29 - 30, 2004, Respondent failed to include the estimated year of closure and the steps the facility would take for closing the PBR treatment unit.

3. SCHEDULE FOR COMPLIANCE

3.1. Based on the foregoing Determination of Violations, IT IS HEREBY ORDERED THAT:

3.1.1. The violation described in section 2.1.1 has been corrected. No further corrective action or submittal is required for this violation.

3.1.2. The violation described in section 2.1.2 has been corrected. No further corrective action or submittal is required for this violation.

3.1.3. Within 30 days of the effective date of this Order, Respondent shall submit, in the manner provided at paragraphs 3.2, 3.3 and 3.4 below, a tank assessment, including all supporting documentation, calculations and diagrams, prepared and certified, in accordance with California Code of Regulations, title 22, section 66270.11, subdivision (d), for the following tanks:

- a. two cyanide treatment tanks;
- b. a waste accumulation/treatment tank containing corrosive hexavalent chrome waste;
- c. two neutralization tanks; and,
- d. a settling tank.

3.1.4. The violation described in section 2.1.4 has been corrected. No further corrective action or submittal is required for this violation:

3.1.5. The violation described in section 2.1.5 has been corrected. No further corrective action or submittal is required for this violation.

3.1.6. The violation described in section 2.1.6 has been corrected. No further corrective action or submittal is required for this violation.

3.1.7. The violation described in section 2.1.7 has been corrected. No further corrective action or submittal is required for this violation.

3.1.8. The violation described in section 2.1.8 has been corrected. No further corrective action or submittal is required for this violation.

3.1.9. The violation described in section 2.1.9 has been corrected.

3.1.10. Respondent shall comply with all terms, requirements, and conditions set forth in Section 5 (Penalty) below.

3.2. Submittals. All submittals from Respondent pursuant to this Order shall be sent simultaneously to:

Mr. Charles A. McLaughlin, Chief
State Oversight and Enforcement Branch
Statewide Compliance Division
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826-3200

and

Mr. Steven Wong, Director
County of Orange Health Care Agency
Environmental Health
1241 E. Dyer Road, Suite 120
Santa Ana, California 92705-5611

3.3. Communications. All approvals and decisions of the Department made regarding such submittals and notifications will be communicated to Respondent in writing by the Branch Chief, Department of Toxic Substances Control, or his/her designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by Respondent shall be construed to relieve Respondent of the obligation to obtain such formal approvals as may be required.

3.4. Department Review and Approval. If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Order

fails to comply with this Order or fails to protect public health or safety or the environment, the Department may:

a. Modify the document as deemed necessary and approve the document as modified, or

b. Return the document to Respondent with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

3.5. Compliance with Applicable Laws. Respondent shall carry out this Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

3.6. Endangerment during Implementation. In the event that the Department determines that any circumstance or activity (whether or not pursued in compliance with this Order) is creating an imminent or substantial endangerment to the health or welfare of people on the Site or in the surrounding area or to the environment, the Department may order Respondent to stop further implementation of this Order for such period of time as needed to abate the endangerment. Any deadline in this Order directly affected by a Stop Work Order under this paragraph shall be extended by the term of the Stop Work Order.

3.7. Liability. Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent. Notwithstanding compliance with the terms of this Order, Respondent may be required to take such further actions as are necessary to protect public health or welfare or the environment.

3.8. Site Access. Access to the Site shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any other agency having jurisdiction. The Department and its authorized representatives shall have the

authority to enter and move freely about all property at the Site at all reasonable times for purposes including but not limited to: inspecting records, operating logs, and contracts relating to the Site; reviewing the progress of Respondent in carrying out the terms of this Order; and conducting such tests as the Department may deem necessary. Nothing in this Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law.

3.9. Sampling, Data and Document Availability.

3.9.1. Respondent shall permit the Department and/or its authorized representatives to inspect and copy all sampling, testing, monitoring, and/or other data (including, without limitation, the results of any such sampling, testing and monitoring) generated by Respondent, or on Respondent's behalf, in any way pertaining to work undertaken pursuant to this Order.

3.9.2. Respondent shall allow the Department and/or its authorized representatives to take duplicates of any samples collected by Respondent pursuant to this Order. Respondent shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Order. All such data, reports, and other documents shall be preserved by Respondent for a minimum of six years after the conclusion of all activities under this Order.

3.9.3. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondent shall either:

- (a) comply with that request,
- (b) deliver the documents to the Department, or
- (c) notify the Department in writing at least six months prior to destroying any documents prepared pursuant to this Order and permit the Department to copy the documents prior to destruction.

3.10. Government Liabilities. Neither the State of California nor the Department

shall be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent, or related parties specified in paragraph 4.3, in carrying out activities pursuant to this Order. Neither the State of California nor the Department shall be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to the Order.

3.11. Incorporation of Plans and Reports. All plans, schedules, and reports that require Department approval and are submitted by Respondent pursuant to this Order are incorporated into this Order upon approval by the Department.

3.12. Extension Request. If Respondent is unable to perform any activity or submit any document within the time required under this Order, the Respondent may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

3.13. Extension Approvals. If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

4. OTHER PROVISIONS

4.1. Additional Enforcement Actions. By issuance of this Order, the Department does not waive any right to take further enforcement actions within its jurisdiction involving either Respondent(s) or the Site.

4.2. Penalties for Noncompliance. Failure to comply with the terms of this Order may subject Respondent to costs, penalties, and/or damages as provided by Health and Safety Code section 25188, and other applicable provisions of law.

4.3. Parties Bound. This Order shall apply to and be binding upon Respondent, and its officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations.

4.4. Privileges. Nothing in this Consent Agreement shall be construed to require any party to waive any privilege, including without limitation, attorney-client and attorney work-product. However, the assertion of any privilege shall not relieve any party of its obligations under this Consent Order.

4.5. Time Periods. "Days" for the purpose of this Order means calendar days.

4.6. Compliance with Waste Discharge Requirements. Respondent shall comply with all applicable waste discharge requirements issued by the State Water Resources Control Board or a California regional water quality control board.

5. PENALTY

5.1. Based on the foregoing DETERMINATION OF VIOLATIONS, the Department sets the amount of Respondent's penalty at \$37,000.

5.2. Payment is due within 30 days from the effective date of the Order.

5.3. Respondent's check shall be made payable to the Department of Toxic Substances Control, and shall identify the Respondent and Docket Number, as shown in the heading of this case. Respondent shall deliver the penalty payment to:

Department of Toxic Substances Control
Accounting Office
1001 I Street, 21st floor
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of the check shall be sent to:

Mr. Charles A. McLaughlin, Chief
State Oversight and Enforcement Branch
Statewide Compliance Division
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826-3200

and

Mr. James J. Grace
Staff Counsel
Office of Legal Counsel
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826-3200

6. RIGHT TO A HEARING

6.1. Respondent may request a hearing to challenge the Order. Appeal procedures are described in the attached Statement to Respondent.

7. EFFECTIVE DATE

7.1. This Order is final and effective twenty days from the date of mailing, which is the date of the cover letter transmitting the Order to Respondent, unless Respondent requests a hearing within the twenty-day period.

Date of Issuance: September 6, 2006

Original signed by Charles A. McLaughlin
Charles A. McLaughlin, Chief
State Oversight and Enforcement Branch
Department of Toxic Substances Control